

1 ROBBINS GELLER RUDMAN  
2 & DOWD LLP  
3 BONNY E. SWEENEY (176174)  
4 DAVID W. MITCHELL (199706)  
5 CARMEN A. MEDICI (248417)  
6 655 West Broadway, Suite 1900  
7 San Diego, CA 92101  
8 Telephone: 619/231-1058  
9 619/231-7423 (fax)  
10 bonnys@rgrdlaw.com  
11 davidm@rgrdlaw.com  
12 cmedici@rgrdlaw.com

13 Attorneys for Plaintiff Colby Giles

14 [Additional counsel appear on signature page.]

15 UNITED STATES DISTRICT COURT  
16 SOUTHERN DISTRICT OF CALIFORNIA

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12 In re MUSICAL INSTRUMENTS AND ) No. MDL Docket No. 2121  
13 EQUIPMENT ANTITRUST LITIGATION )  
14 \_\_\_\_\_ ) JOINT MOTION FOR INITIAL PRETRIAL  
15 This Document Relates To: ) CONFERENCE  
16 ALL ACTIONS. )  
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1 Plaintiffs<sup>1</sup> and the defendants identified below<sup>2</sup> in the 30-plus actions subject to the transfer  
 2 orders of the Judicial Panel on Multidistrict Litigation (“MDL Panel”) in *In re Musical Instruments*  
 3 and *Equipment Antitrust Litigation*, No. 3:09-md-02121-LAB-POR (S.D. Cal.) and cases transferred  
 4 to this Court pursuant to the “low number” rule, jointly move the Court to schedule an initial pretrial  
 5 conference. Counsel for plaintiffs Colby Giles, David Giambusso, Niranjan Parikh, Kate

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7 <sup>1</sup> Counsel for plaintiff Colby Giles (*Giles v. Guitar Center, Inc.*, No. 3:09-cv-02146 (S.D.  
 8 Cal.), filed September 30, 2009) represents that the plaintiffs in 36 of the 37 other related cases join  
 9 in this motion. Including the *Giles* case, the 27 cases consolidated in this District by the MDL Panel  
 10 are: *Giambusso v. National Association of Music Merchants, Inc.*, No. 3:09-cv-02002 (C.D. Cal.);  
*Hale v. Guitar Center Inc.*, No. 2:09-cv-06897 (C.D. Cal.); *O’Leary v. Guitar Center Inc.*, No. 2:09-  
 11 cv-07015 (C.D. Cal.); *Collins v. Guitar Center, Inc.*, No. 3:09-cv-02151 (S.D. Cal.); *Teller v. Guitar*  
*Center, Inc.*, No. 1:09-cv-06104 (N.D. Ill.); *Keel v. Guitar Center, Inc.*, No. 3:09-cv-02156 (S.D.  
 12 Cal.); *Parikh v. Guitar Center, Inc.*, No. 2:09-cv-07254 (C.D. Cal.); *Manyin v. Guitar Center, Inc.*,  
 13 No. 1:09-cv-01950 (D.D.C.); *Williamson v. Guitar Center, Inc.*, No. 2:09-cv-07375 (C.D. Cal.);  
*Cervantes v. Guitar Center, Inc.*, No. 2:09-cv-07526 (C.D. Cal.); *Bandish v. Guitar Center, Inc.*, No.  
 14 1:09-cv-01984 (D.D.C.); *Poff, Jr. v. Guitar Center, Inc.*, No. 2:09-cv-07614 (C.D. Cal.); *Cook v.*  
*Guitar Center, Inc.*, No. 2:09-cv-07630 (C.D. Cal.); *Melton v. Guitar Center, Inc.*, No. 1:09-cv-  
 15 02002 (D.D.C.); *Logsdon v. Guitar Center, Inc.*, No. 2:09-cv-07783 (C.D. Cal.); *Tabas v. Guitar*  
*Center, Inc.*, No. 1:09-cv-02019 (D.D.C.); *Bigg v. Guitar Center, Inc.*, No. 3:09-cv-00869 (W.D.  
 16 Ky.); *Roessler v. Guitar Center, Inc.*, No. 2:09-cv-07923 (C.D. Cal.); *Roach v. National Association*  
*of Music Merchants, Inc.*, No. 1:09-cv-00940 (E.D. Tex.); *Armstrong v. National Association of*  
*Music Merchants, Inc.*, No. 1:09-cv-00942 (E.D. Tex.); *Pearson v. Guitar Center, Inc.*, No. 1:09-cv-  
 17 06872 (N.D. Ill.); *Kennedy v. National Association of Music Merchants, Inc.*, No. 2:09-cv-07985  
*(C.D. Cal.); *Jost v. Guitar Center, Inc.*, No. 3:09-cv-00923 (S.D. Ill.); *Jennings v. Guitar Center,**  
*Inc.*, No. 2:09-cv-08343 (C.D. Cal.); *Wiggins v. Guitar Center, Inc.*, No. 3:10-cv-00631 (N.D. Cal.);  
 18 and *Smith v. Guitar Center, Inc.*, No. 2:09-cv-08708 (C.D. Cal.). There are an additional ten cases  
 19 which were transferred to this Court pursuant to the “low-number” rule: *Witherspoon v. National*  
*Association of Music Merchants, Inc.*, No. 3:09-cv-02178 (S.D. Cal.); *Ramsey v. National*  
*Association of Music Merchants, Inc.*, No. 3:09-cv-02211 (S.D. Cal.); *Sepulveda v. Guitar Center,*  
*Inc.*, No. 3:09-cv-02267 (S.D. Cal.); *Paradise v. National Association of Music Merchants, Inc.*, No.  
 20 3:09-cv-02285 (S.D. Cal.); *Bohl v. National Association of Music Merchants, Inc.*, No. 3:09-cv-  
 21 02332 (S.D. Cal.); *Lesko v. Guitar Center, Inc.*, No. 3:09-cv-02418 (S.D. Cal.); *Seiler v. Guitar*  
*Center, Inc.*, No. 3:09-cv-02423 (S.D. Cal.); *Gagnepain v. Guitar Center, Inc.*, No. 3:09-cv-02488  
 22 (S.D. Cal.); *Feltheimer v. National Association of Music Merchants, Inc.*, No. 3:10-cv-00075 (S.D.  
 23 Cal.); and *Kaufman v. National Association of Music Merchants, Inc.* 3:10-cv-00103 (S.D. Cal.).  
 Counsel for plaintiffs Colby Giles, David Giambusso, Niranjan Parikh, Kate MacWilliamson and  
 Jason Paradise consulted with counsel for Walter Witherspoon, however, Mr. Witherspoon does not  
 join in this motion.

24 <sup>2</sup> The defendants joining in this motion are: Guitar Center, Inc. (“Guitar Center”); Guitar  
 25 Center Stores, Inc.; National Association of Music Merchants, Inc. (“NAMM”); Yamaha  
 26 Corporation of America; Fender Musical Instruments Corp.; Gibson Guitar Corp.; Gibson Musical  
 27 Instruments Corporation; C.F. Martin & Co., Inc.; and Korg USA, Inc. (collectively, the  
 “defendants”). Plaintiffs have not served the following defendants: Bain Capital, LLC; Peavey  
 Electronics; TASCAM; TEAC Corporation of North America; and TEAC. Additionally, Dean  
 Markley Electronics, Inc. and D’Addario & Company, Inc. were served, but have yet to enter an  
 appearance.

1 MacWilliamson and Jason Paradise, and counsel for defendants Guitar Center and NAMM on behalf  
2 of all defendants joining in this motion, met and conferred by telephone on March 3, 2010 and  
3 reached agreement on the following:

4 Pursuant to Rule 16 of the Federal Rules of Civil Procedure, the parties jointly request the  
5 Court schedule an initial pretrial conference at the Court's convenience and stay the requirements of  
6 Rule 26, until after interim lead counsel is selected and a consolidated amended complaint is filed.  
7 Defendants informed plaintiffs' counsel that they expect, on the basis of the previously filed  
8 complaints, to file a motion to dismiss the consolidated amended complaint in its entirety and seek a  
9 stay of discovery until after the Court rules on their motion to dismiss; plaintiffs assert that such a  
10 stay is not appropriate. The parties respectfully suggest that the Court and the parties address the  
11 following topics at the initial pretrial conference:

12 1. Transfer status of consolidated cases;  
13 2. The manner in which subsequently filed actions will be treated;  
14 3. Briefing schedule of interim lead counsel motions;  
15 4. Deadlines for the filing of an consolidated amended complaint and responsive  
16 pleadings or motions;

17 5. The timing of an initial case management conference. The parties propose that prior  
18 to the date of this case management conference set by the Court, the parties will file a status report  
19 on outstanding issues;

20 6. Admission of attorneys; and  
21 7. Filing, service and docketing.

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1 Additionally, plaintiffs' counsel informed defendants' counsel that plaintiffs intend to request at the  
2 initial pretrial conference that the Court enter a preservation order. Defendants believe that a  
3 preservation order is unnecessary because defendants are aware of their obligations.

4 DATED: March 31, 2010

ROBBINS GELLER RUDMAN  
& DOWD LLP  
BONNY E. SWEENEY  
DAVID W. MITCHELL  
CARMEN A. MEDICI

---

8 s/ Bonny E. Sweeney  
9 BONNY E. SWEENEY

10 655 West Broadway, Suite 1900  
11 San Diego, CA 92101  
Telephone: 619/231-1058  
619/231-7423 (fax)

12 Attorneys for Plaintiff Colby Giles

13 DATED: March 31, 2010

SQUITIERI & FEARON, LLP  
OLIMPIO L. SQUITIERI  
GARRY T. STEVENS, JR.

---

16 s/ Olimpio L. Squitieri  
17 OLIMPIO L. SQUITIERI

18 32 East 57th Street, 12th Floor  
19 New York, NY 10022  
Telephone: 212/421-6492  
212/421-6553 (fax)

20 WEXLER WALLACE LLP  
21 KENNETH A. WEXLER  
55 West Monroe Street, Suite 3300  
22 Chicago, IL 60603-5088  
Telephone: 312/589-6270  
312/589-6271 (fax)

23 WEXLER WALLACE LLP  
24 MARK J. TAMBLYN  
455 Capitol Mall, Suite 231  
25 Sacramento, CA 95814  
Telephone: 916/492-1100  
916/492-1124 (fax)

27 Attorneys for Plaintiff David Giambusso

1 DATED: March 31, 2010

SCOTT + SCOTT LLP  
CHRISTOPHER M. BURKE  
JOSEPH P. GUGLIELMO  
HAL D. CUNNINGHAM

2

3

4

s/ Christopher M. Burke

CHRISTOPHER M. BURKE

5

6

7

600 B Street, Suite 1500  
San Diego, CA 92101  
Telephone: 619/233-4565  
619/233-0508 (fax)

8

9

10

11

SCOTT + SCOTT LLP  
JOSEPH P. GUGLIELMO  
500 5th Avenue, Floor 40  
New York, NY 10110  
Telephone: 800/404-7770  
212/223-6364 (fax)

12

13

14

15

16

17

18

19

20

21

KIESEL BOUCHER & LARSON LLP  
RAYMOND P. BOUCHER  
PAUL R. KIESEL  
MICHAEL C. EYERLY  
8648 Wilshire Boulevard  
Beverly Hills, CA 90211  
Telephone: 310/854-4444  
310/854-0812 (fax)

22

23

24

25

26

27

28

LEOPOLD KUVIN PA  
THEODORE J. LEOPOLD  
WILLIAM C. WRIGHT  
2925 PGA Boulevard, Suite 200  
Palm Beach Gardens, FL 33410  
Telephone: 561/935-4801  
561/515-1401 (fax)

Attorneys for Plaintiffs Niranjan Parikh  
and Kate MacWilliamson

22

DATED: March 31, 2010

MILBERG LLP  
PAUL F. NOVAK  
PETER G. SAFIRSTEIN  
PEGGY J. WEDGWORTH

s/ Peggy J. Wedgworth

PEGGY J. WEDGWORTH

One Pennsylvania Plaza  
New York, NY 10119  
Telephone: 212/594-5300  
212/868-1229 (fax)

MILBERG LLP  
JEFF S. WESTERMAN  
One California Plaza  
300 South Grand Avenue, Suite 3900  
Los Angeles, CA 90071  
Telephone: 213/617-1200  
213/617-1975 (fax)

Attorneys for Plaintiff Jason Paradise

DATED: March 31, 2010

HANGLEY ARONCHICK SEGAL & PUDLIN  
WILLIAM T. HANGLEY  
MONICA L. REBUCK

s/ William T. Hangley  
**WILLIAM T. HANGLEY**

One Logan Square, 27th Floor  
Philadelphia, PA 19103  
Telephone: 215/568-6200  
215/568-0300 (fax)

HANGLEY ARONCHICK SEGAL & PUDLIN  
MONICA L. REBUCK  
30 North Third Street, Suite 700  
Harrisburg, PA 17101  
Telephone: 717/364-1030  
717/364-1020 (fax)

Attorneys for Defendant C.F. Martin & Co.

DATED: March 31, 2010

BRYAN CAVE LLP  
LAWRENCE G. SCARBOROUGH  
J. ALEX GRIMSLY

s/ Lawrence G. Scarborough  
**LAWRENCE G. SCARBOROUGH**

Two North Central Avenue, Suite 2200  
Phoenix, AZ 85004  
Telephone: 602/364-7000  
602/364-7070 (fax)

1  
2 Attorneys for Defendant  
3 Fender Musical Instruments Corp.  
4

5  
6 DATED: March 31, 2010  
7  
8

9 LATHAM & WATKINS LLP  
10 MARGARET M. ZWISLER  
11 CHARLES H. SAMEL  
12  
13

---

14 s/ Margaret M. Zwisler  
15 MARGARET M. ZWISLER  
16

17 555 Eleventh Avenue, NW Suite 1000  
18 Washington, DC 20004  
19 Telephone: 202/637-2200  
20 202/637-2201 (fax)  
21  
22

23 LATHAM & WATKINS LLP  
24 CHARLES H. SAMEL  
25 355 South Grand Avenue  
26 Los Angeles, CA 90071-1560  
27 Telephone: 213/485-1234  
28 213/891-8763 (fax)  
29  
30

31 Attorneys for Defendants Guitar Center, Inc. and  
32 Guitar Center Stores, Inc.  
33

34 DATED: March 31, 2010  
35  
36

37 ALSTON & BIRD LLP  
38 DEBRA D. BERNSTEIN  
39 RODNEY J. GANSKE  
40 JOHN MARK ROCHEFORT  
41  
42

---

43 s/ Debra D. Bernstein  
44 DEBRA D. BERNSTEIN  
45

46 One Atlantic Center  
47 1201 West Peachtree Street  
48 Atlanta, GA 30309  
49 Telephone: 404/881-7000  
50 404/881-7777 (fax)  
51  
52

53 ALSTON & BIRD LLP  
54 JOHN MARK ROCHEFORT  
55 333 South Hope Street  
56 16th Floor  
57 Los Angeles, CA 90071  
58 Telephone: 213/576-1101  
59 213/576-1100 (fax)  
60  
61

1  
2 DATED: March 31, 2010  
3  
4

Attorneys for Defendant Korg USA, Inc.

HOWREY LLP  
ROBERT G. ABRAMS  
PAUL C. CUOMO

---

5 s/ Robert G. Abrams  
6 ROBERT G. ABRAMS

7 1299 Pennsylvania Avenue NW  
8 Washington, DC 20004  
9 Telephone: 202/783-0800  
10 202/383-6610 (fax)

11 Attorneys for Defendant National Association of  
12 Music Merchants, Inc.

13 DATED: March 31, 2010  
14

CROWELL & MORING LLP  
DANIEL A. SASSE  
CHAHIRA SOLH

---

15 s/ Daniel A. Sasse  
16 DANIEL A. SASSE

17 3 Park Plaza  
18 Irvine, CA 92648  
19 Telephone: 949/263-8400  
20 949/263-8414 (fax)

21 Attorneys for Defendant  
22 Yamaha Corporation of America

23 ADEMI & O'REILLY LLP  
24 SHPETIM ADEMI  
25 GURI ADEMI  
26 3620 East Layton Avenue  
27 Cudahy, WI 53110  
28 Telephone: 866/264-3995  
414/482-8001 (fax)

Additional Counsel for Plaintiff Jason Paradise

AMAMGBO & ASSOCIATES  
DONALD AMAMGBO  
7901 Oakport Street, Suite 4900  
Oakland, CA 94621  
Telephone: 510/615-6000  
510/615-6025 (fax)

Attorneys for Plaintiff Dwayne Wiggins

1  
2  
3  
4  
5  
6  
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8  
9  
10  
11  
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23  
24  
25  
26  
27  
28  
HEATHER A. BARNES  
ATTORNEY AT LAW  
86 Longview Drive  
Vacaville, CA 95687  
Telephone: 317/633-8787  
317/633-8797 (fax)

Attorneys for Plaintiff Rory W. Collins

BARON & BUDD PC  
BRUCE W. STECKLER  
DENYSE F. CLANCY  
MELISSA K. HUTTS  
3102 Oak Lawn Avenue, Suite 1100  
Dallas, TX 75219  
Telephone: 214/251-3605  
214/520-1181 (fax)

BARON & BUDD PC  
ERIC L. BROWN  
9465 Wilshire Boulevard, Suite 460  
Beverly Hills, CA 90212  
Telephone: 310/860-0476  
310/860-0480 (fax)

BARON & BUDD PC  
J. BURTON LEBLANC, IV  
9015 Bluebonnet Boulevard  
Baton Rouge, LA 70810  
Telephone: 225/927-5441  
225/927-5449 (fax)

Attorneys for Plaintiff Rick Kaufman

BARRACK RODOS & BACINE  
GERALD J. RODOS  
JEFFREY B. GITTELMAN  
3300 Two Commerce Square  
2001 Market Street  
Philadelphia, PA 19103  
Telephone: 215/963-0600  
215/963-0838 (fax)

BARRACK RODOS & BACINE  
STEPHEN R. BASSER  
SAMUEL M. WARD  
600 West Broadway, Suite 900  
San Diego, CA 92101  
Telephone: 619/230-0800  
619/230-1874 (fax)

Attorneys for Plaintiffs Cynthia Sepulveda and  
Mark O'Leary

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
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28

BRANSTETTER STRANCH  
& JENNINGS PLLC  
JAMES G. STRANCH, III  
J. GERARD STRANCH, IV  
STEVEN J. SIMERLEIN  
227 2nd Avenue North, 4th Floor  
Nashville, TN 37201-1631  
Telephone: 615/254-8801  
615/250-3937 (fax)

Attorneys for Plaintiff Paula Jennings

CAREY & DANIS LLC  
MICHAEL J. FLANNERY  
JAMES J. ROSEMERGY  
8235 Forsyth Boulevard, Suite 1100  
St. Louis, MO 63105-3786  
Telephone: 314/725-7700  
314/721-0905 (fax)

Attorneys for Plaintiffs Jerry Jost  
and Kevin Gagnepain

CHAVEZ LAW FIRM P.C.  
KATHLEEN C. CHAVEZ  
28 North First Street #2  
Geneva, IL 60134  
Telephone: 630/232-4480

Attorneys for Plaintiffs Josh Pearson, John  
Pearson and Mary Pearson

COHEN PLACITELLA & ROTH PC  
STEWART L. COHEN  
WILLIAM D. MARVIN  
JILLIAN A. SMITH  
2001 Market Street, Suite 2900  
Philadelphia, PA 19103  
Telephone: 215/567-3500  
215/567-6019 (fax)

Attorneys for Plaintiff Daniel T. Smith

DOYLE LOWTHER LLP  
WILLIAM J. DOYLE, II  
JOHN A. LOWTHER  
9466 Black Mountain Road, Suite 210  
San Diego, CA 92126  
Telephone: 619/573-1700  
619/573-1701 (fax)

Attorneys for Plaintiff William S. Poff, Jr.

1 FINE KAPLAN & BLACK, RPC  
2 ROBERTA D. LIEBENERG  
3 RIA C. MOMBLANCO  
4 1835 Market Street, Suite 2800  
Philadelphia, PA 19103  
Telephone: 215/567-3500  
215/567-6019 (fax)

5 Attorneys for Plaintiff Daniel T. Smith  
6

7 FOOTE, MEYERS, MIELKE  
& FLOWERS, LLC  
8 ROBERT M. FOOTE  
MATTHEW J. HERMAN  
3 North Second Street, Suite 300  
9 St. Charles, IL 60174  
Telephone: 630/232-6333  
10 630/845 8982 (fax)

11 Attorneys for Plaintiffs Josh Pearson, John  
12 Pearson and Mary Pearson  
13

14 FRANKLIN GRAY & WHITE  
15 MARK K. GRAY  
DORIS A. KIM  
16 The Speed Mansion  
505 W. Ormsby Avenue  
Louisville, KY 40202  
Telephone: 502/585-2060  
502/581-1933 (fax)

17 Attorneys for Plaintiff Ryan J. Bigg  
18

19 FREED & WEISS LLC  
ERIC D. FREED  
JEFFREY A. LEON  
20 111 West Washington Street, Suite 1331  
Chicago, IL 60602  
Telephone: 866/779-9610  
312/220-7777 (fax)

21 Attorneys for Plaintiff Benn Feltheimer  
22

23 FRIEDMAN LAW GROUP  
24 GARY B. FRIEDMAN  
270 Lafayette Street, 14th Floor  
New York, NY 10012  
Telephone: 212/680-5150

25 26 Attorneys for Plaintiff Russell D. Melton  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
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20  
21  
22  
23  
24  
25  
26  
27  
28

GERGOSIAN & GRALEWSKI LLP  
ROBERT J. GRALEWSKI, JR  
BROOKE E. HODGES  
750 B Street, Suite 1250  
San Diego, CA 92101  
Telephone: 619/237-9500  
619/237-9555 (fax)

Attorneys for Plaintiff Agustin Cervantes

GILBERT & SACKMAN ALC  
LAURIE A. TRAKTMAN  
JAY E. SMITH  
MICHAEL D. WEINER  
3699 Wilshire Boulevard, Suite 1200  
Los Angeles, CA 90010-2732  
Telephone: 323/938-3000  
323/937-9139 (fax)

Attorneys for Plaintiff Paula Jennings

GILMAN AND PASTOR, LLP  
KENNETH G. GILMAN  
16 Fourteenth Avenue  
Wareham, MA 02571  
Telephone: 508/291-8400  
508/291-3258 (fax)

Attorneys for Plaintiff Joshua Ramsey

GIRARD GIBBS LLP  
ELIZABETH C. PRITZKER  
DANIEL C. GIRARD  
AARON M. SHEANIN  
601 California Street, Suite 1400  
San Francisco, CA 94108  
Telephone: 415/981-4800  
415/981-4846 (fax)

Attorneys for Plaintiff Joshua Ramsey

GOLDMAN SCARLATO & KARON  
MARK S. GOLDMAN  
BRIAN D. PENNY  
101 West Elm Street, Suite 360  
Conshohocken, PA 19428  
Telephone: 484/342-0700  
484/342-0701 (fax)

Attorneys for Plaintiff Richard Tabas

1 GUSTAFSON GLUEK PLLC  
2 DANIEL E. GUSTAFSON  
3 DANIEL C. HEDLUND  
4 650 Northstar East  
5 608 Second Avenue South  
Minneapolis, MN 55402  
Telephone: 612/333-8844  
612/339-6622 (fax)

6 Attorneys for Plaintiff Agustin Cervantes

7 HAGENS BERMAN SOBOL SHAPIRO LLP  
8 LEE M. GORDON  
9 ELAINE T. BYSZEWSKI  
10 700 S. Flower Street, Suite 2940  
Los Angeles, CA 90017  
Telephone: 213/330-7150  
213/330-7152 (fax)

11 HAGENS BERMAN SOBOL SHAPIRO LLP  
12 ELIZABETH A. FEGAN  
13 820 North Boulevard, Suite B  
Oak Park, IL 60301  
Telephone: 708/776-5604  
708/776-5601 (fax)

14 HAGENS BERMAN SOBOL SHAPIRO LLP  
15 STEVE W. BERMAN  
16 ANTHONY D. SHAPIRO  
17 1918 Eighth Ave. Suite 3300  
Seattle, WA, 98101  
Telephone: 206/623-7292  
206/623-0594 (fax)

18 Attorneys for Plaintiffs Allen Hale, Daniel T.  
19 Smith and Gerald Logsdon

20 HAUSFELD LLP  
21 MICHAEL HAUSFELD  
22 HILARY K. SCHERRER  
1700 K Street, NW, Suite 650  
Washington, DC 20006  
Telephone: 202/540-7200  
202/540-7201 (fax)

24 Attorneys for Plaintiffs Kenneth Manyin, Richard  
25 Tabas and Russell D. Melton

1 HOLLAND, GROVES, SCHNELLER  
2 & STOLZE LLC  
3 ERIC D. HOLLAND  
4 STEVEN J. STOLZE  
5 300 North Tucker Boulevard, Suite 801  
St Louis, MO 63101  
Telephone: 314/241-8111  
314/241-5554

6 Attorneys for Plaintiffs Bryan Roach  
7 and Brandon Armstrong

8 HUDSON, MALLANEY, SHINDLER  
9 & ANDERSON, P.C.  
J. BARTON GOPLERUD  
10 5015 Grand Ridge Drive, Suite 100  
West Des Moines, IA 50265  
Telephone: 515/223-4567  
515/223-8887 (fax)

11 Attorneys for Plaintiff Allen Hale

12 KERSHAW CUTTER & RATINOFF LLP  
13 STUART C. TALLEY  
14 JOHN R. PARKER  
15 401 Watt Avenue  
Sacramento, CA 95864  
Telephone: 916/448-9800  
916/448-9800 (fax)

16 Attorneys for Plaintiff Alex Bohl

17 KREINDLER AND KREINDLER  
18 MARK I. LABATON  
19 707 Wilshire Boulevard, Suite 4100  
Los Angeles, CA 90017  
Telephone: 866/386-2531

21 Attorneys for Plaintiff Craig Kennedy

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
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24  
25  
26  
27  
28

LABATON SUCHAROW LLP  
HOLLIS SALZMAN  
KELLIE LERNER  
140 Broadway  
New York, NY 10005  
Telephone: 212/907-0700  
212/818-0477

Attorneys for Plaintiff Craig Kennedy

LAW OFFICE OF GREGORY L. DAVIS LLC  
GREGORY L. DAVIS  
6987 Halcyon Park Drive  
Montgomery, AL 36117  
Telephone: 334/832-9080  
334/409-7001

Attorneys for Plaintiff William S. Poff, Jr.

LAW OFFICE OF JOHN P. MCCARTHY  
JOHN P. MCCARTHY  
PHILIP A. STEINBERG  
217 Bay Avenue  
Somers Point, NJ 08244  
Telephone: 609/653-1094  
609/653-3029 (fax)

Attorneys for Plaintiff Richard Tabas

LAW OFFICES OF GILBERT T. ADAMS  
GILBERT T. ADAMS, III  
1855 Calder Avenue at Third Street  
P.O. Drawer 3688  
Beaumont, TX 77704-3688  
Telephone: 409/835-3000  
409/832-6162 (fax)

Attorneys for Plaintiffs Bryan Roach  
and Brandon Armstrong

LAW OFFICES OF KATHLEEN S. ROGERS  
KATHLEEN S. ROGERS  
140 Fourteenth Avenue  
San Mateo, CA 94402  
Telephone: 650/766-3126

Attorneys for Plaintiffs Robert Lesko,  
Suzanne Ondre and Lisa Pritchett

1  
2  
3  
4  
5  
LAW OFFICES OF MATTHEW F. PAWA PC  
MATTHEW F. PAWA  
MARK R. RIELLY  
BENJAMIN A. KRASS  
1280 Centre Street, Suite 230  
Newton Centre, MA 02459  
Telephone: 617/641-9550  
617/641-9551 (fax)

6  
Attorneys for Plaintiff Gerald Logsdon

7  
8  
9  
10  
LEOPOLD KUVIN PA  
THEODORE J. LEOPOLD  
WILLIAM C. WRIGHT  
2925 PGA Boulevard, Suite 200  
Palm Beach Gardens, FL 33410  
Telephone: 561/515-1400  
561/515-1401 (fax)

11  
Attorneys for Plaintiff Scott Cook

12  
13  
14  
15  
LORENS & ASSOCIATES, APLC  
L. TRACEE LORENS  
701 B Street, Suite 1400  
San Diego, CA 92101  
Telephone: 619/239-1233  
619/239-1178 (fax)

16  
Attorneys for Plaintiffs Robert Lesko,  
Suzanne Ondre and Lisa Pritchett

17  
18  
19  
20  
MASON LLP  
DONNA F. SOLEN  
1625 Massachusetts Avenue, NW, Suite 605  
Washington, DC 20036  
Telephone: 202/429-2290  
202/429-2294 (fax)

21  
Attorneys for Plaintiff Jon Bandish

22  
23  
24  
25  
MOSCONE EMBLIGE & QUADRA LLP  
JAMES A. QUADRA  
G. SCOTT EMBLIDGE  
SYLVIA M. SOBOL  
220 Montgomery Street, Suite 2100  
San Francisco, CA 94101  
Telephone: 415/362- 3599  
415/362-2006 (fax)

26  
Attorneys for Plaintiffs Robert Lesko,  
Suzanne Ondre and Lisa Pritchett

1 MURDOCK GOLDENBERG SCHNEIDER  
2 & GROH, LPA  
3 JEFFREY S. GOLDENBERG  
4 35 East Seventh Street, Suite 600  
Cincinnati, OH 45202  
Telephone: 513/345-8291  
5 513/345-8294 (fax)

6 Attorneys for Plaintiff Richard Tabas

7 MURRAY FRANK & SAILER LLP  
BRIAN P. MURRAY  
8 LEE ALBERT  
BRIAN D. BROOKS  
275 Madison Avenue, 8th Floor  
9 New York, NY 10016  
Telephone: 212/682-1818  
10 212/682-1892 (fax)

11 Attorneys for Plaintiff Jon Bandish

12 PATRICIA A. MEYER & ASSOCIATES, APC  
PATRICIA A. MEYER  
13 444 West C Street, Suite 330  
San Diego, CA 92101  
14 Telephone: 619/235-8636  
619/235-0510 (fax)

15 Attorneys for Plaintiffs Joshua Seiler  
16 and David Kauffman

17 PRICE WAICUKAUSKI & RILEY LLC  
WILLIAM N. RILEY  
18 JOSEPH N. WILLIAMS  
301 Massachusetts Avenue  
19 Indianapolis, IN 46204  
Telephone: 317/633-8787  
20 317/633-8797 (fax)

21 Attorneys for Plaintiff Rory W. Collins

22 REINHARDT WENDORF & BLANCHFIELD  
23 MARK REINHARDT  
GARRETT D. BLANCHFIELD  
24 E1250 First National Bank Bldg.  
332 Minnesota Street  
25 St. Paul, MN 55101  
Telephone: 651/287-2100  
26 651/287-2103 (fax)

27 Attorneys for Plaintiff Russell D. Melton

1 RIDOUT & LYON LLP  
2 CHRISTOPHER PAUL RIDOUT  
3 DEVON M. LYON  
4 555 East Ocean Boulevard, Suite 500  
5 Long Beach, CA 90802  
6 Telephone: 562/216-7383  
7 562/216-7385 (fax)

8  
9 Attorneys for Plaintiff Benn Feltheimer  
10

11 ROBBINS UMEDA LLP  
12 BRIAN J. ROBBINS  
13 GEORGE C. AGUILAR  
14 ASHLEY R. PALMER  
15 DAVID L. MARTIN  
16 600 B Street, Suite 1900  
17 San Diego, CA 92101  
18 Telephone: 619/525-3990  
19 619/525-3991 (fax)

20 Attorneys for Plaintiff David Keel  
21

22 SALTZ MONGELUZZI BARRETT  
23 & BENDESKY PC  
24 SIMON B. PARIS  
25 One Liberty Place, 52nd Floor  
26 1650 Market Street  
27 Philadelphia, PA 19103  
28 Telephone: 215/496-8282  
29 215/496-0999 (fax)

30 Attorneys for Plaintiff Mark O'Leary  
31

32 SHANE AND WHITE LLC  
33 MARK SHANE  
34 1676 Route 27  
35 Edison, NJ 08817-3449  
36 Telephone: 732/819-9100  
37 732/572-9641 (fax)

38 Attorneys for Plaintiff Craig Kennedy  
39

40 SHAPIRO HABER & URMY LLP  
41 CHARLES E. TOMPKINS  
42 53 State Street  
43 Boston, MA 02109  
44 Telephone: 617/439-3939  
45 617/439-0134 (fax)

46 Attorneys for Plaintiffs Joshua Seiler  
47 and David Kauffman  
48

SPECTOR ROSEMAN KODROFF  
& WILLIS PC  
JEFFREY L. KODROFF  
JEFFREY J. CORRIGAN  
JAY S. COHEN  
JONATHAN M. JAGHER  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103  
Telephone: 215/496-0300  
215/496-6611 (fax)

Attorneys for Plaintiffs Kenneth Manyin and  
Richard Tabas

STEPHAN ZOURAS, LLP  
JAMES B. ZOURAS  
RYAN F. STEPHAN  
205 N. Michigan Avenue, Suite 2560  
Chicago, IL 60601  
Telephone: 312/233-1550  
312/233-1560 (fax)

Attorneys for Plaintiff Alex Teller

SUSMAN GODFREY LLP  
MARC M. SELTZER  
STEVEN G. SKLAVER  
1901 Avenue of the Stars, Suite 950  
Los Angeles, CA 90067-6029  
Telephone: 310/789-3100

Attorneys for Plaintiff Rob Roessler

THE TERRELL LAW GROUP  
REGINALD V. TERRELL  
P.O. Box 13315, PMB #148  
Oakland, CA 94661  
Telephone: 510/237-9700  
510/237-4616 (fax)

Attorneys for Plaintiff Dwayne Wiggins

THE KRALOWEC LAW GROUP  
KIMBERLY A. KRALOWEC  
188 Embarcadero, Suite 800  
San Francisco, CA 94105  
Telephone: 415/546-6800  
415/546-6801 (fax)

Attorneys for Plaintiffs Robert Lesko,  
Suzanne Ondre and Lisa Pritchett

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
THE LAW FIRM OF PETER L. CURRIE, P.C.  
PETER L. CURRIE  
536 Wing Lane  
St. Charles, IL 60174  
Telephone: 630/862-1130  
630/845-8982

Attorneys for Plaintiffs Josh Pearson, John  
Pearson and Mary Pearson

THE MOGIN LAW FIRM PC  
DANIEL J. MOGIN  
KRISTY L. FISCHER  
110 Juniper St.  
San Diego, CA 92101-5305  
Telephone: 619/687-6611  
619/687-6610 (fax)

Attorneys for Plaintiff Scott Cook

**ECF CERTIFICATION**

The filing attorney attests that she has obtained concurrence regarding the filing of this  
document from the signatories to this document.

DATED: March 31, 2010

By: s/ Bonny E. Sweeney  
BONNY E. SWEENEY

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on March 31, 2010, I electronically filed the foregoing with the Clerk of  
3 the Court using the CM/ECF system which will send notification of such filing to the e-mail  
4 addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have  
5 mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF  
6 participants indicated on the attached Manual Notice List.

7 I certify under penalty of perjury under the laws of the United States of America that the  
8 foregoing is true and correct. Executed on March 31, 2010.

9 s/ Bonny E. Sweeney  
10 BONNY E. SWEENEY

11 ROBBINS GELLER RUDMAN  
12 & DOWD LLP  
13 655 West Broadway, Suite 1900  
14 San Diego, CA 92101  
Telephone: 619/231-1058  
619/231-7423 (fax)  
15 E-mail:[bonnys@rgrdlaw.com](mailto:bonnys@rgrdlaw.com)

## Mailing Information for a Case 3:09-md-02121-LAB -POR

### Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Gilbert Timbrell Adams , III**  
gilbert@gta-law.com
- **Heather A. Barnes**  
heather\_ann\_barnes@yahoo.com
- **Stephen Richard Bassler**  
sbassler@barrack.com,efilesd@barrack.com
- **Walter Moreau Berger**  
bergerc@howrey.com
- **Steve W. Berman**  
steve@hbsslaw.com,heatherw@hbsslaw.com,dawn@hbsslaw.com
- **Raymond P Boucher**  
boucher@kbla.com,sharo@kbla.com
- **Christopher M. Burke**  
cburke@scott-scott.com,tturner@scott-scott.com,efile@scott-scott.com
- **Elaine T. Byszewski**  
elaine@hbsslaw.com
- **Kathleen Currie Chavez**  
gkeg4@aol.com
- **Hal D. Cunningham**  
hcunningham@scott-scott.com,efile@scott-scott.com
- **Paul C. Cuomo**  
cuomop@howrey.com
- **Peter Lawrence Currie**  
plclaw05@aol.com
- **Gregory L Davis**  
gldavis@knology.net
- **William James Doyle , II**  
bill@doylelowther.com,john@doylelowther.com
- **Michael C Eyerly**  
eyerly@kbla.com
- **Elizabeth A Fegan**  
beth@hbsslaw.com,chi\_filings@hbsslaw.com
- **Kristy Fischer**  
kristy@moginlaw.com,kristyfischer@hotmail.com
- **Robert M. Foote**  
rmf@foote-meyers.com
- **Jeffrey B. Gittleman**  
jgittleman@barrack.com,rbranch@barrack.com

- **J Barton Goplerud**  
jbgoplerud@hudsonlaw.net
- **Lee M Gordon**  
lee@hbsslaw.com,JenniferB@hbsslaw.com
- **Robert J Gralewski , JR**  
bob@gergosian.com,johanna@gergosian.com
- **Mark K Gray**  
mgray@franklingrayandwhite.com,mkgrayatty@aol.com,dkim@franklingrayandwhite.com
- **J. Alex Grimsley**  
jagrimsley@bryancave.com,mavilla@bryancave.com
- **Daniel E Gustafson**  
dgustafson@gustafsongluek.com
- **Daniel C Hedlund**  
dhedlund@gustafsongluek.com
- **Matthew J. Herman**  
mherman@foote-meyers.com
- **Brooke E. Hodge**  
brooke@gergosian.com,johanna@gergosian.com
- **Eric Davis Holland**  
eholland@allfela.com
- **Paul R Kiesel**  
kiesel@kbla.com
- **Doris A. Kim**  
DKim@FranklinGrayandWhite.com
- **Mark I Labaton**  
mlabaton@kreindler.com,wkurtz@kreindler.com
- **Ted Leopold**  
tleopold@leopoldkuvin.com
- **Kellie Lerner**  
klerner@labaton.com
- **Garrett Stuart Long**  
garrett.long@lw.com
- **John A. Lowther**  
john@doylelowther.com
- **Todd Lawrence McLawhorn**  
mclawhornt@howrey.com
- **Carmen A. Medici**  
cmedici@csgrr.com,christinas@csgrr.com
- **David G Meyer**  
meyerd@howrey.com
- **David William Mitchell**  
DavidM@csgrr.com,e\_file\_sd@csgrr.com

- **Daniel J Mogin**  
dan@moginlaw.com
- **B. Travis Newman**  
tnewman@franklingrayandwhite.com
- **John W Peterson**  
jpeterson@rwpjplc.com,msuchovsky@rwpjplc.com,dgibby@rwpjplc.com
- **Jesse Elijah Maram Randolph**  
jesse.randolph@bryancave.com,nikol.kim@bryancave.com,gloria.gomez@bryancave.com,cindy.kuno@bryancave.com
- **Hilary Kathleen Ratway**  
hratway@hausfeldllp.com
- **Brian J Robbins**  
notice@robbinsmeda.com
- **Gerald Rodos**  
grodos@barrack.com
- **James J. Rosemergy**  
jrosemergy@careydanis.com
- **Hollis Salzman**  
hsalzman@labaton.com
- **Charles Howard Samel**  
charles.same1@lw.com,michael.elisofon@lw.com
- **Daniel A. Sasse**  
dsasse@crowell.com
- **Lawrence G D Scarborough**  
lgscarborough@bryancave.com
- **Merrill S. Schell**  
mschell@wyattfirm.com
- **Marc Morris Seltzer**  
mseltzer@susmangodfrey.com
- **Anthony D Shapiro**  
tony@hbsslaw.com
- **Steven John Simerlein**  
ssimerlein@branstetterlaw.com
- **Steven G Sklaver**  
ssklaver@susmangodfrey.com,srabin@susmangodfrey.com,hdanielson@susmangodfrey.com,dsobczak@susmangodfrey.com
- **Jay Edward Smith**  
js@gslaw.org
- **Donna F. Solen**  
dsolen@masonlawdc.com
- **Chahira Solh**  
csolh@crowell.com
- **Olimpio Lee Squitieri**  
lee@sfclasslaw.com,minerva@sfclasslaw.com

- **Ryan F Stephan**  
rstefhan@stephanzouras.com,iweber@stephanzouras.com,mbabowice@stephanzouras.com
- **Garry T. Stevens**  
garry@sfciclasslaw.com,minerva@sfciclasslaw.com
- **Steven J Stolze**  
stevenstolze@yahoo.com
- **Bonny E Sweeney**  
BonnyS@csgr.com,Slandry@csgr.com
- **Mark J Tamblyn**  
mjt@wexlerwallace.com,smb@wexlerwallace.com,nd@wexlerwallace.com,ecf@wexlerwallace.com
- **Reginald Terrell**  
reggiet2@aol.com
- **Laurie A Traktman**  
lat@gslaw.org
- **Matthew W. Walch**  
matthew.walch@lw.com
- **Samuel M Ward**  
sward@barrack.com,efilesd@barrack.com
- **Michael David Weiner**  
mweiner@gslaw.org
- **Kenneth A. Wexler**  
kaw@wexlerwallace.com,emv@wexlerwallace.com
- **Michael S. Wise**  
wisem@howrey.com
- **William C. Wright**  
wwright@leopoldkuvin.com
- **David Alan Zetoony**  
david.zetoony@bryancave.com
- **James B. Zouras**  
jzouras@stephanzouras.com,iweber@stephanzouras.com,mbabowice@stephanzouras.com
- **Margaret M. Zwisler**  
margaret.zwisler@lw.com

### Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

**Benjamin A Krass**  
Law Offices of Matthew F Pawa PC  
1280 Centre Street Suite 230  
Newton Centre, MA 02459

**Simon B Paris**  
Saltz Mongeluzzi Barrett and Bendesky PC  
1650 Market Street 52nd Floor  
Philadelphia, PA 19103

**Matthew F Pawa**

Law Offices of Matthew F Pawa PC  
1280 Centre Street Suite 230  
Newton Centre, MA 02459

**Mark R Rielly**

Law Offices of Matthew F Pawa PC  
1280 Centre Street Suite 230  
Newton Centre, MA 02459

**Mark Shane**

Shane and White LLC  
1676 Route 27  
Edison, NJ 08817-3449

**J Gerard Stranch**

, IV

Branstetter Stranch & Jennings  
227 Second Avenue North 4th Floor  
Nashville, TN 37201-1631

**James G Stranch**

, III

Branstetter Kilgore Stranch and Jennings PLLC  
227 2nd Avenue North 4th Floor  
Nashville, TN 37201-1631